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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,990	05/04/2005	Andreas Wunderlich	1825.001	2585
23598 7590 10/15/2008 BOYLE FREDRICKSON S.C. 840 North Plankinton Avenue MILWAUKEE, WI 53203				
EXAMINER REESE, DAVID C				
ART UNIT 3677		PAPER NUMBER		
NOTIFICATION DATE 10/15/2008		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@boylefred.com

Office Action Summary

Application No.

10/533,990

Applicant(s)

WUNDERLICH, ANDREAS

Examiner

David C. Reese

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

THIS FINAL ACTION IS RESPONSIVE TO THE AMENDMENT FILED 8/14/2008.

- Claim 10 was canceled.
- Claims 15-16 were added.
- Claims 1-2, 5, 8-9, 11-12, and 14 were amended.
- Claims 1-9 and 11-16 are pending.
- Replacement Drawings were filed for entry.

Drawings

[1] The drawing(s) were previously objected for informalities. In view of Applicant's amendment to the claims and replacement drawings submitted on 8/14/2008, all previous objection(s) to the drawings have been withdrawn and the replacement drawing has been entered.

Specification

[2] The disclosure was previously objected for informalities. Applicant has successfully addressed these issues in the amendment filed on 8/14/2008. Accordingly, the objection(s) to the specification have been withdrawn.

Claim Rejections - 35 USC § 112

[3] Applicant has addressed all rejections under 35 USC § 112 to the Claims in the amendment filed 8/14/2008. Accordingly, the Examiner has withdrawn the 35 USC § 112 rejections.

Claim Rejections - 35 USC § 102

[4] The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(c) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

[5] Claims 1-9 and 11-16 are rejected under 35 U.S.C. 102(b) as anticipated by Capuano, US-4,273,175, because the invention was patented or described in a printed publication in this or a foreign country, or in public use or on sale in this country more than one (1) year prior to the application for patent in the United States.

As for Claim 1, Capuano discloses of a screw (10) [for use on hard materials,] including concrete or masonry, the screw (10) having

a shaft,

a head (12) in the vicinity of one end of the shaft,

a tip, and

a thread (18) extending for a plurality of turns in a spiral path around the shaft, wherein a series of cutting teeth (28) are formed within one half turn of the thread (18) and along at least one half turn of the thread (18), and wherein the cutting teeth (28) have equal but opposite sides

and also have faces that are alternately and laterally offset to opposite sides of the spiral path of the thread (18).

Re: Claim 2, wherein the cutting teeth (28) form sawteeth.

Re: Claim 3, wherein the sawteeth (28) have transverse leading edges that are roughly radially disposed with respect to a longitudinal axis of the screw (10).

Re: Claim 4, wherein the thread (18) has a crest, and wherein along the at least one half turn of the thread (18), the crest is flattened, forming a plurality of narrow faces.

Re: Claim 5, wherein the crest of the at least one half turn of the thread (18) has cutting edges extending transverse to the spiral path of the thread (18).

Re: Claim 6, wherein the alternating offset of the cutting teeth (28) provide alternating protrusions and notches along sides of the thread (18).

Re: Claim 7, wherein the cutting teeth (28) have leading edges extending down from the transverse leading edges towards the shank, said downwardly extending leading edges also being radially disposed edges.

Re: Claim 8, wherein the cutting teeth (28) are formed in a series with each tooth next to a succeeding tooth along a plurality of turns of the spiral path of the thread (18).

Re: Claim 9, wherein the cutting teeth (28) have sides with edges that are disposed along radii all the way down to the shaft of the screw (10).

Re: Claim 11, wherein the thread (18) has opposite sides with an included angle between the sides of the thread (18) that falls within the range extending from 20 degrees to 30 degrees over an outer radial portion thereof that is disposed to penetrate the wall of a drilled hole.

Re: Claim 12, wherein the sides of the thread (18) extend down to transition zones having an included angle that falls within the range extending from 40 degrees to 60 degrees over the transition zones immediately adjoining its shaft.

Re: Claim 13, wherein the teeth (28) are each offset from one another by a width of one of the narrow faces.

Re: Claim 14, wherein at least one of the following varies over the length of the shaft:
a number of cutting teeth (28) per unit of length of thread, and
shapes of the teeth (28) forming set of cutting teeth.

As for Claim 15, Capuano discloses of a screw (10) [for use on hard materials,] including concrete or masonry, the screw (10) having

a shaft,

a head (12) in the vicinity of one end of the shaft,

a tip, and

a thread (18) extending for a plurality of turns in a spiral path around the shaft, wherein a series of cutting teeth (28) are formed within one half turn of the thread and for at least one half turn of the thread, and wherein the cutting teeth (28) have equal but opposite sides and wherein the cutting teeth (28) are formed along a rectangular face and have edges that follow the spiral path of the thread, with alternating teeth (28) having a right-hand edge of one tooth face aligned with a left-hand edge of a next tooth face along the spiral path of the thread (18).

Re: Claim 16, wherein the cutting teeth (28) are formed in a series with each tooth next to a succeeding tooth along the spiral path of the thread (18).

Response to Arguments

[6] Applicant's amendment, see amendment and remarks filed 8/14/2008, with respect to the rejection(s) of claim(s) under Auger have been fully considered. Therefore, the rejection with regard to Auger has been withdrawn. However, upon further consideration of the amended claims, a new ground(s) of rejection is made in view of Capuano, US-4,273,175. Consequently, all arguments are considered moot to said new grounds of rejection. Please also note the additional notice of reference cited.

Conclusion

[7] Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

[8] Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Reese whose telephone number is (571) 272-7082. The examiner can normally be reached on 7:30 am-6:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached at (571) 272-6987. The fax number for the organization where this application or proceeding is assigned is the following: (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David Reese

/D. C. R./
Examiner, Art Unit 3677

/Victor Batson/
Supervisory Patent Examiner, Art Unit 3677